

DOCKETED

NOV 18 2003

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

INTERNATIONAL UNION OF ALLIED
NOVELTY & PRODUCTION WORKERS,
AFL-CIO,

Plaintiff,

v.

ILLINOIS BADGE & BUTTON
COMPANY, doing business as
WERTHWHILE INDUSTRIES,

Defendant.

CASE NO. 03C 8231

JUDGE JUDGE HOLDERMAN

MAGISTRATE JUDGE SCHENKIER

COMPLAINT

Parties

FILED-ED5

03 NOV 18 PM 1:35

CLERK
U.S. DISTRICT COURT

1. Plaintiff International Union of Allied Novelty & Production Workers, AFL-CIO ("IUANPW") is a labor organization that, through its affiliates, represents workers engaged in manufacturing and other related industries for the purposes of collective bargaining. It maintains its headquarters in Chicago, Illinois.

2. Defendant Illinois Badge & Button Company, doing business as Werthwhile Industries ("Werthwhile"), is an Illinois business located at 3418 North Knox, Chicago, Illinois. It is engaged in the production of buttons, magnets, and other promotional items.

Jurisdiction and Venue

3. This Court is the appropriate venue under 28 U.S.C. § 1391 for this action, as both parties transact business within this judicial district and the events underlying this complaint occurred within this judicial district as well.

1-1

4. This Court has jurisdiction over IUANPW's claims pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1367.

Factual Allegations

5. IUANPW has a mark, known as a "union bug," that is used to identify items made or printed by members of its affiliated local unions who are employed by employers party to a collective bargaining agreement with one of those affiliated unions. The mark may be used by those employers, with the permission of IUANPW, to identify its goods as union made.

6. In December 2002 IUANPW learned that Werthwhile had printed buttons using the IUANPW union bug, a design that reflects that the buttons were made by members of a IUANPW-affiliated union.

7. Neither IUANPW nor any of its affiliates has ever represented Werthwhile's employees for the purposes of collective bargaining. Neither IUANPW nor any of its affiliates has ever given permission to Werthwhile to use the IUANPW union bug.

8. By letter dated January 16, 2003, counsel for IUANPW demanded that Werthwhile cease and desist from using its union bug henceforth, and insisted on an accounting of the use of its union bug and any profits resulting from that improper use.

9. Werthwhile did not respond to that demand.

10. On September 2, 2003, IUANPW filed suit in the Northern District of Illinois against Werthwhile as a result of the company's unauthorized use of the IUANPW union bug. In response to the lawsuit, Werthwhile contacted IUANPW and asserted that it would cease and desist from further use of the union bug on its products. In response, IUANPW dismissed its lawsuit without prejudice.

11. On or about November 12, 2003, IUANPW received a phone call and then a letter from Tasco Industries ("Tasco"). Tasco inquired as to whether IUANPW was an allied trade union. The basis for the request for information from Tasco was that Werthwhile represented to Tasco that it was authorized to use the IUANPW union bug.

12. IUANPW has thus learned that Werthwhile continues to offer union labels on its printed materials, including promotional buttons. IUANPW further believes that Werthwhile has continued to use IUANPW's union bug, despite IUANPW's prior directive to cease and desist from such improper use.

Count I – Violation of the Lanham Act

13. IUANPW reincorporates paragraphs 1 through 12 as if fully set forth herein.

14. The Lanham Act, 15 U.S.C. § 1051, et seq. provides that

[a]ny person who, on or in connection with any goods or services, ..., uses in commerce any word, term, name, symbol, or device, or any combination thereof, or any false designation of origin, false or misleading description of fact, or false or misleading representation of fact, which--

is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of such person with another person, or as to the origin, sponsorship, or approval of his or her goods, services, or commercial activities by another person, ...

shall be liable in a civil action by any person who believes that he or she is or is likely to be damaged by such act.

15 U.S.C. § 1125(a)(1).

15. By the acts set forth above, Werthwhile has deceived others as to its association with IUANPW and IUANPW's approval of Werthwhile's goods and services, in violation of the Lanham Act.

WHEREFORE Plaintiff IUANPW seeks an injunction against Werthwhile prohibiting it from any further use of the IUANPW union bug without IUANPW permission; an accounting of all items produced by Werthwhile that have had the IUANPW union bug on them; an accounting

of all profits earned by Werthwhile on those items bearing the IUANPW union bug; damages in the form of those profits; and its attorneys' fees and costs incurred in bringing this action.

Count II – Violation of the Illinois Union Label Act

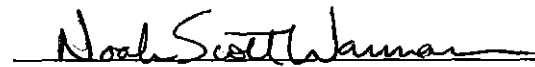
16. IUANPW reincorporates paragraphs 1 through 12 as if fully set forth herein.

17. The Illinois Union Label Act, 815 ILCS 425/1 et seq., makes it unlawful for a person or corporation to knowingly counterfeit or imitate a label adopted by a labor union to demonstrate that labeled product was manufactured by members of that union.

18. By the acts set forth above, Werthwhile has violated the Illinois Union Label Act.

WHEREFORE Plaintiff IUNAPW requests that this court permanently enjoin Werthwhile from any further use of the IUNAPW label on its goods and products; direct Werthwhile to account for all products made and sold bearing the IUNAPW label; direct Werthwhile to deliver all such goods in stock to IUNAPW for destruction; award IUNAPW a sum equal to the profits derived from all products bearing the IUNAPW; and award IUNAPW its attorneys' fees and costs incurred in bringing this action.

Respectfully submitted,



Noah Scott Warman
CARMELL CHARONE WIDMER
MATHEWS AND MOSS
225 West Washington Street
Suite 1000
Chicago, Illinois 60606
(312) 236-8033

Dated: November 18, 2003

DOCKETED

NOV 18 2003

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

JUDGE HOLDERMAN

MAGISTRATE JUDGE SCHENKIER

Civil Cover Sheet **03C 8231**

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the Northern District of Illinois.

Plaintiff(s): International Union of Allied Novelty & Production Workers, AFL-CIO

Defendant(s): Illinois Badge & Button Company, d/b/a Werthwhile Industries

County of Residence Cook

County of Residence

Plaintiff Atty: Noah Scott Warman
Carmell Charone Widmer Mathews
& Moss
225 West Washington Suite 1000,
Chicago IL 60606
312-236-8033

Defendants Atty:

FILED-ED5

03 NOV 18 PM 1:35

CLERK
U.S. DISTRICT COURT

II. Basis of Jurisdiction

3. Federal Question (U.S. not a party)

III. Citizenship of Principal Parties

(Diversity Cases Only)

Plaintiff N/A
Defendant N/A

IV. Origin:

4. Reinstated or Reopened

V. Nature of Suit

840 Trademark

VI. Cause of Action

15 USC Sec. 1051 et seq. - Lanham Act - improper use of union label

VII. Requested in Complaint

Class Action No
Dollar Demand
Jury Demand No

VIII. This case IS a refiling of a previously dismissed case. Case number **03C6120** by Judge **Holderman**

Signature

Noah Scott Warman

Date:

11/18/03

If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the *Back* button in your browser and change it. Once correct, print this form, sign and date it and submit it with your new civil action. **Note: You may need to adjust the font size in your browser display to make the form print properly.**

Revised: 06/28/00

1-2

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

EASTERN DIVISION

DOCKETED

NOV 18 2003
JUDGE HOLDERMAN

MAGISTRATE JUDGE SCHENKIER

In the Matter of

International Union of Allied Novelty & Production Workers,
AFL-CIO,

v.

Illinois Badge & Button Co. d/b/a Werthwhile Industries

Case Number: 03C

8231

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR:

International Union of Allied Novelty & Production Workers, AFL-CIO

FILED-ED5

03 NOV 8 PM 1:35

CLERK U.S. DISTRICT COURT

(A)		(B)	
SIGNATURE <i>Noah Scott Warman</i>		SIGNATURE <i>John F. Ward</i>	
NAME Noah Scott Warman		NAME John F. Ward	
FIRM Carmell Charone Widmer Mathews & Moss		FIRM Carmell Charone Widmer Mathews & Moss	
STREET ADDRESS 225 West Washington Suite 1000		STREET ADDRESS 225 West Washington Suite 1000	
CITY/STATE/ZIP Chicago, IL 60606		CITY/STATE/ZIP Chicago, IL 60606	
TELEPHONE NUMBER 312-236-8033	FAX NUMBER	TELEPHONE NUMBER 312-236-8033	FAX NUMBER
E-MAIL ADDRESS nwarman@carmellcharone.com		E-MAIL ADDRESS jforward@carmellcharone.com	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 90785137		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6184959	
MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>	
(C)		(D)	
SIGNATURE		SIGNATURE	
NAME		NAME	
FIRM		FIRM	
STREET ADDRESS		STREET ADDRESS	
CITY/STATE/ZIP		CITY/STATE/ZIP	
TELEPHONE NUMBER	FAX NUMBER	TELEPHONE NUMBER	FAX NUMBER
E-MAIL ADDRESS		E-MAIL ADDRESS	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)	
MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input type="checkbox"/>		MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input type="checkbox"/>	
TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input type="checkbox"/>		TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input type="checkbox"/>	
DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>	

13